



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

June 29, 2020

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The Honorable Marco Rubio
United States Senator
201 South Orange Avenue, Suite 350
Orlando, FL 32801

Attention:

Dear Senator Rubio:

I am responding to your inquiry dated May 28, 2020, on behalf of your constituent . asked whether payment received in a breach of contract lawsuit settlement is excludible from gross income under the Internal Revenue Code (the Code). explained filed the lawsuit against a potential employer who hired for a new job but cancelled employment contract without cause. claims the stress of the experience caused to suffer

I'm sorry to hear of the difficulty experienced due to a breach of contract lawsuit.

While I can provide certain general principles of the law, this information is intended for informational purposes only. It does not constitute a ruling.

A private letter ruling interprets the tax laws and applies them to the taxpayer's specific set of facts. A taxpayer may request a private letter ruling by submitting a written request under the procedures described in Revenue Procedure 2020-1, Section 7, 1 IRB 9, 23 (Jan. 2, 2020).

Whether settlement proceeds are excludable from gross income as damages received on account of personal physical injuries or physical sickness is, in part, a factual

question. In reaching this determination, courts generally look at the settlement agreement in light of all the surrounding circumstances. A court may look at the allegations of the complaint to determine whether the claims to which the proceeds are allocated in the settlement agreement are claims for personal physical injuries or physical sickness. However, the mere mention of "personal physical injuries" in a complaint does not, by itself, serve to bring a recovery within the exclusion.

Section 61(a) of the Code defines gross income as all income from whatever source derived. Gross income means all undeniable accessions to wealth, clearly realized, over which the taxpayers have complete dominion, unless specifically excluded.

Commissioner v. Glenshaw Glass Co., 348 U.S. 426 (1955).

Section 104(a)(2) of the Code excludes from gross income the amount of any damages (excluding punitive damages) received on account of personal physical injuries or physical sickness. However, damages received for emotional distress do not qualify for this exclusion, unless they are recovered because of a personal physical injury or physical sickness or are less than the amount paid for medical care due to the emotional distress.

I hope this general information is helpful. If you have additional questions, you may contact me at _____, or _____ at _____.

Sincerely,

Angella L. Warren
Branch Chief, Branch 4
(Income Tax & Accounting)